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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,321	08/21/2001	Naoya Haneda	09792909-5138	8002

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EXAMINER

YIMAM, HARUN M

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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06/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/934,321

Applicant(s)

HANEDA, NAOYA

Examiner

Harun M. Yimam

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/23/2007 has been entered.

Response to Arguments

2. Applicant's arguments filed 04/20/2007 have been fully considered but are not persuasive.

3. Applicant argues (page 6, 3rd paragraph) that Tracton fails to teach or suggest that the client provides in an initial communication with the server application information that identifies the application via which the content can be accessed, Applicant should note that when the client (another device) provides a characteristic profile that enables the server to determine which application to be used by the client to access the content, said client clearly provides application information including format identifying information as it indicates the format that is compatible with the client (see

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columns 4, lines 50-62, column 5, lines 5-12 and 30-65). In the same manner, when the client requests for data/content from the server, the server provides the client capability-tailored content according to the client's capabilities, which clearly includes application information including format identifying information n (column 3, lines 40 – column 5, line 65).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 4, 7 and 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Tracton (6,470,378).

Considering claims 1, 4, 7, and 8, Tracton discloses an information processing system (100 Fig. 4), corresponding method and computer-readable program for distributing content to another device (102 Fig. 4) via a network (104, 114, 116, Fig. 4) comprising:

first receiving unit (118 in Fig. 4) for configured to receive from said another device (102 Fig. 4), via said network, an initial communication (server 70, client 72 and central registry 74 of figure 3 are in communication over a network to determine client's capabilities prior to the actual data is provided to the client—column 3, line 66 – column 4, line 14) of application information (application information 112 in figure 4) that identifies an application via which said content can be accessed, content identifying information and format identifying information (column 4, lines 14-30);

reading unit (118 Fig. 4) configured to retrieve from storage said content based on content identifying information included in the application information when the application information of the content is received by the first receiving means (the reading means is embedded in the receiving means column 5 lines 30-37);

format converting unit configured to convert the content read by the reading means into data in a predetermined format based on format identifying information included in the application information (column 5 lines 58-62); and

distributing unit configured to distribute the content, which is converted into the data in the predetermined format by the format converting means, to the device via the network (column 5 lines 60-61).

As for claim 4, Tracton discloses the format identifying information that includes information, which designates an encoding system and/or encoding rate of the content (the server scales content according to the clients network speed which means it alters the encoding rate to be client specific, column 5 lines 58-62).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 3, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracton in view of Shan-Nazaroff (6,157,377).

With regards to claim 2, Tracton fails to specifically teach a second receiving unit configured to receive transaction information of the content; authenticating unit configured to authenticate the transaction information when the transaction information of the content is received by the second receiving unit, wherein the reading means reads out the content based on a result authenticated by the authenticating means.

In an analogous art, Shah-Nazaroff discloses a second receiving (320 Fig. 3) unit configured to receive transaction information of the content (column 5 lines 25-29); authenticating unit configured to authenticate the transaction information when the transaction information of the content is received by the second receiving unit, wherein the reading unit reads out the content based on a result authenticated by the authenticating unit (password, column 5 lines 13-20).

It would have been obvious to one of ordinary skill in the art to modify Tracton's system to include a second receiving means for receiving transaction information of the content and authenticating means for authenticating the transaction information when the transaction information of the content is received by the second receiving means, wherein the reading means reads out the content based on a result authenticated by the authenticating means, as taught by Shah-Nazaroff, for the benefit of allowing the system to keep track and securely and accurately bill user upgrade transactions.

Regarding claim 3, Tracton fails to specifically disclose a system wherein the transaction information includes a credit card number.

In an analogous art, Shah-Nazaroff discloses a system wherein the transaction information includes a credit card number (column 5 lines 25-27).

It would have been obvious to one of ordinary skill in the art to modify Tracton's system to include transaction information that includes a credit card number, as taught by Shah-Nazaroff, for the benefit of allowing the service provider to bill the users credit card.

Considering claim 5, Traction fails to specifically disclose calculating unit configured to calculate a use charge for the content based on the application information, which is received by the first receiving unit;

and accounting unit configured to account the use charge, which is calculated by the calculating unit, corresponding to the other device.

In an analogous art Shah-Nazaroff discloses calculating unit configured to calculate a use charge for the content based on the application information which is received by the first receiving unit (the system bills upgrades which is additional content features such as stereo instead of Mono, HDTV instead of lower resolution TV, which means the system has the ability to calculate the amount to charge a user depending on the upgrades that he/she have selected, column 5 lines 25-28);

and accounting unit configured to account the use charge, which is calculated by the calculating unit, corresponding to the other device (client accounts, column 5 lines 25-28).

It would have been obvious to one of ordinary skill in the art to modify Tracton's system to include a unit for calculating a use charge for the content based on the application information which is received by the first receiving unit and accounting unit for accounting the use charge, which is calculated by the calculating unit, corresponding to the other device, as taught by Shah-Nazaroff, for the benefit of allowing the service

provider to keep accurate records of a large number and charge those users based on the amount of upgrades they elect to use.

As for claim 6, Tracton fails to specifically teach a detecting unit configured to detect a busy status on the network, wherein the format converting unit converts the content into data in a predetermined format based on the busy status, which is detected by the detecting unit.

In an analogous art, Shah-Nazaroff discloses detecting unit configured to detect a busy status on the network, wherein the format converting unit converts the content into data in a predetermined format based on the busy status which is detected by the detecting unit (the greater the number of users on the network, the lower the video quality the each subscriber receives from the broadcast network column 2 lines 30-38).

It would have been obvious to one of ordinary skill in the art to modify Tracton's system to include a detecting unit configured to detect a busy status on the network, wherein the format converting unit converts the content into data in a predetermined format based on the busy status which is detected by the detecting unit, as taught by Shah-Nazaroff, for the benefit of making sure that there is enough available bandwidth on the network to support the broadcast streams being sent to the users.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harun M. Yimam whose telephone number is 571-272-7260. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HMY


ANDREW Y. KOENIG
PRIMARY PATENT EXAMINER